

AMENDED IN SENATE AUGUST 16, 2006

AMENDED IN SENATE AUGUST 7, 2006

AMENDED IN ASSEMBLY APRIL 4, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2239**

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**Introduced by Assembly Member Emmerson**  
**(Principal coauthor: Assembly Member Levine)**  
**(Coauthor: ~~Assembly Member Spitzer~~ Coauthors: Assembly**  
**Members Leno and Spitzer)**

February 22, 2006

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An act to amend Section 6248 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2239, as amended, Emmerson. Vehicles: sales and use taxes.

The Sales and Use Tax Law imposes a tax on the gross receipts from the storage, use, or other consumption in this state of tangible personal property. Under existing law, there is a presumption that a vehicle, vessel, or aircraft shipped or brought into this state within 12 months from the date of its purchase was purchased from a retailer for storage, use, or other consumption in this state, under specified circumstances, until June 30, 2007. On and after July 1, 2007, the rebuttable presumption applies within 90 days from the date of the vehicle, vessel, or aircraft purchase, under specified circumstances.

This bill would provide that the presumption ~~shall not apply to~~ *may be controverted by documentary evidence, as specified, for* a vehicle brought into this state ~~within 12 months of purchase~~ for the exclusive purpose of warranty or repair service where the vehicle is in this state

for that purpose for 30 days or less, as provided. This bill ~~would provide that if a vehicle is used or stored in state for more than 30 days, the presumption applies, unless evidence demonstrates the vehicle was in the physical possession of the facility performing the repair or warranty services, as provided.~~ *would require the owner of the vehicle to make statements specifying the date of travel to and from the warranty or repair facility, as provided.*

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6248 of the Revenue and Taxation  
2 Code, as amended by Section 4 of Chapter 49 of the Statutes of  
3 2006, is amended to read:

4 6248. (a) On and after the effective date of this section there  
5 shall be a rebuttable presumption that any vehicle, vessel, or  
6 aircraft bought outside of this state, and which is brought into  
7 California within 12 months from the date of its purchase, was  
8 acquired for storage, use, or other consumption in this state and is  
9 subject to use tax if any of the following occur:

10 (1) The vehicle, vessel, or aircraft was purchased by a  
11 California resident as defined in Section 516 of the Vehicle  
12 Code.

13 (2) In the case of a vehicle, the vehicle was subject to  
14 registration under Chapter 1 (commencing with Section 4000) of  
15 Division 3 of the Vehicle Code during the first 12 months of  
16 ownership.

17 (3) In the case of a vessel or aircraft, that vessel or aircraft was  
18 subject to property tax in this state during the first 12 months of  
19 ownership.

1 (4) The vehicle, vessel, or aircraft is used or stored in this state  
2 more than one-half of the time during the first 12 months of  
3 ownership.

4 (b) This presumption may be controverted by documentary  
5 evidence that the vehicle, vessel, or aircraft was purchased for  
6 use outside of this state during the first 12 months of ownership.  
7 This evidence may include, but is not limited to, evidence of  
8 registration of that vehicle, vessel, or aircraft, with the proper  
9 authority, outside of this state.

10 (c) This section does not apply to any vehicle, vessel, or  
11 aircraft used in interstate or foreign commerce pursuant to  
12 regulations prescribed by the board.

13 (d) The amendments made to this section by the act adding  
14 this subdivision do not apply to any vehicle, vessel, or aircraft  
15 that is either purchased, or is the subject of a binding purchase  
16 contract that is entered into, on or before the operative date of  
17 this subdivision.

18 (e) (1) Notwithstanding subdivision (a), aircraft or vessels  
19 brought into this state for the purpose of repair, retrofit, or  
20 modification shall not be deemed to be acquired for storage, use,  
21 or other consumption in this state.

22 (2) This subdivision does not apply if, during the period  
23 following the time the aircraft or vessel is brought into this state  
24 and ending when the repair, retrofit, or modification of the  
25 aircraft or vessel is complete, more than 25 hours of airtime in  
26 the case of an airplane or 25 hours of sailing time in the case of a  
27 vessel are logged on the aircraft or vessel by the registered owner  
28 of that aircraft or vessel or by an authorized agent operating the  
29 aircraft or vessel on behalf of the registered owner of the aircraft  
30 or vessel. The calculation of airtime or sailing time logged on the  
31 aircraft or vessel does not include airtime or sailing time  
32 following the completion of the repair, retrofit, or modification of  
33 the aircraft or vessel that is logged for the sole purpose of  
34 returning or delivering the aircraft or vessel to a point outside of  
35 this state.

36 (3) This subdivision applies to aircraft or vessels brought into  
37 this state for the purpose of repair, retrofit, or modification on or  
38 after the operative date of this subdivision.

39 ~~(f) (1) Notwithstanding subdivision (a), a vehicle brought into~~  
40 ~~this state within 12 months from the date of its purchase for the~~

~~exclusive purpose of warranty or repair service shall not be deemed to be acquired for storage, use, or other consumption in this state, provided the vehicle is used or stored in this state for that purpose for 30 days or less. The 30-day period begins when the vehicle enters this state, includes any time of travel to and from the warranty or repair facility, and ends when the vehicle is returned to a point outside of this state.~~

~~(2) This subdivision does not apply if a vehicle is stored or used within this state for more than 30 days, unless documentary evidence demonstrates that the vehicle was in the physical possession of the facility performing the repair or warranty service which caused the vehicle to be used or stored in this state for more than 30 days.~~

*(f) The presumption set forth in subdivision (a) may be controverted by documentary evidence that the vehicle was brought into this state for the exclusive purpose of warranty or repair service and was used or stored in this state for that purpose for 30 days or less. The 30-day period begins when the vehicle enters this state, includes any time of travel to and from the warranty or repair facility, and ends when the vehicle is returned to a point outside the state. The documentary evidence shall include a work order stating the dates that the vehicle is in the possession of the warranty or repair facility and a statement by the owner of the vehicle specifying dates of travel to and from the warranty or repair facility.*

(g) The amendments made by Section 2 of Chapter 226 of the Statutes of 2004 adding this subdivision shall become operative on October 1, 2004.

(h) The Legislative Analyst's Office shall conduct a study of the economic impacts of the amendments made to this section by the act adding this subdivision, and shall report its findings to the Legislature on or before June 30, 2006.

(i) This section shall remain in effect only until and including June 30, 2007, and as of July 1, 2007, is repealed.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.